

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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VOLVO CONSTRUCTION
EQUIPMENT RENTS, INC.,

Plaintiff,

v.

NRL RENTALS, LLC, et al.,

Defendants.

2:09-cv-00032-JCM-LRL

ORDER

Before the court is plaintiff's Motion for an Order to Issue Titles (#279). The court has reviewed the motion (#279), defendants' Partial Opposition (#285), plaintiff's Reply (#302), and the exhibits attached to the foregoing.

Plaintiff's original Writ of Possession was granted on March 14, 2009. Order (#68). Plaintiff's application for an Expanded Writ of Possession was granted on March 2, 2010. Order (#255). Pursuant to these writs, plaintiff has taken possession of, and sold, several items of equipment. Plaintiff represents that it cannot sell six of the items because no record of title exists for those items. Plaintiff further represents that the Nevada Department of Motor Vehicles requires an order of the court to issue titles for the six items of equipment before it will issue titles to plaintiff. Mot. (#279) at 3; Gerber Aff. at 2. Plaintiff thus filed the instant motion (#279).

In their Partial Opposition (#285), defendants state that they do not object to an order to issue titles to plaintiff on "the vehicles and machinery that Plaintiff has properly recovered pursuant to the writs," which defendant maintains are only "four of the six pieces of equipment described in Plaintiff's motion." Opp'n (#281) at 2. Defendant then states, "five of the items described in the motion do not properly belong to Plaintiff," *id.*, but finally requests in its counter-motion that all "six items listed in

1 the Plaintiff's Motion for Order to Issue Titles be returned to their proper owners. . . ." *Id.* at 4. It is
2 not entirely clear whether defendants mean to oppose the issuance of titles for all of the equipment or
3 only one or two of the items.

4 In support of its position, defendants allege that one item, a 2005 International rollback truck,
5 actually belongs to a Stacy McGuire. However, the VIN on the title proffered by defendant, Exh. A to
6 Opp'n (#285), while very similar, is not the same as that for the rollback truck identified in plaintiff's
7 motion. Defendants also allege that the 1999 Freightliner truck belongs to defendant, Robert Balli, and
8 is titled in his name.¹ Opp'n (#285). No evidence of a title or other proof of ownership, however, has
9 been proffered to the court. Balli further attests that "one of the trailer/generator combos belongs to a
10 California company which left the generator with Defendant NRL Rentals for repairs," and "the other
11 generator/trailer was sold to a third party and was released by Volvo in the ordinary course of day to day
12 business." *Id.*; Balli Aff. at 1. As noted by plaintiff, other than these vague statements, no evidence was
13 proffered to support the claims that these items rightfully belong to entities other than plaintiff.

14 Nor has plaintiff offered specific evidence that the six items of equipment rightfully belong to
15 it. As defendants point out, no connection has been shown between the equipment and the VINs
16 identified in the motion (#279) and plaintiff's inventory lists attached to the application for writ (#66).
17 Additionally, although plaintiff attests that someone at the DMV said a court order would be necessary
18 for it to issue titles, the court will require more information before it will order the State of Nevada to
19 issue titles for the equipment to plaintiff. The motion will be denied without prejudice, with leave to
20 re-file it on a more specific and complete showing that plaintiff is the owner of the equipment in
21 question.

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23 . . .

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26 ¹ Interestingly, this assertion is not included in Robert Balli's affidavit which accompanies the opposition.

1 Accordingly, and for good cause shown,

2 IT IS ORDERED that plaintiff's Motion for an Order to Issue Titles (#279) is DENIED without
3 prejudice.

4 DATED this 12th day of July, 2010.

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7 **LAWRENCE R. LEAVITT**
8 **UNITED STATES MAGISTRATE JUDGE**
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